KeyCite Yellow Flag - Negative Treatment
Distinguished by Neighbors in Support of Appropriate Land Use v. County of Tuolumne, Cal.App. 5 Dist., December 7, 2007

275 Cal.App.2d 412, 79 Cal.Rptr. 872

BESSIE C. SCRUTTON,
Plaintiff and Appellant,
v.
COUNTY OF SACRAMENTO,
Defendant and Respondent.

Civ. No. 11856.
Court of Appeal, Third District, California.
Aug. 4, 1969.

HEADNOTES

(1)
Zoning § 1--"Conditional Zoning."
"Conditional zoning" is an appropriate phrase to describe a zoning change which permits use of a particular property subject to conditions not generally applicable to land similarly zoned.

(2a, 2b)
Zoning § 2(1)--Validity of Laws.
Conditional rezoning of property by a county pursuant to an ordinance providing for imposition of conditions to reclassification in the interest of public health, safety, and general welfare was not in excess of the county's authority under state law nor did it violate the states' requirement of uniformity of land use (Gov. Code, § 65852), where the conditions imposed would not prevent the landowner from using her property for all purposes within the multiple residential classification for which she had filed an application.

See **Cal.Jur.2d,** Zoning, § 56; **Am.Jur.,** Zoning (1st ed § 14).

(3)
Zoning § 1--Nature of Authority.
County zoning regulations are a manifestation of the local police power conferred by Cal. Const., art. XI, § 11, not an exercise of authority delegated by statute; in their intrinsic character and by express declaration the state laws on county and city zoning are designed as standardizing limitations over local zoning practices, not as specific grants of authority to legislate, and the state statutes' silence on conditional rezoning is therefore not a denial of power to pursue that practice.

See **Cal.Jur.2d,** Zoning, § 7; **Am.Jur.,** Zoning (1st ed § 8).

(4a, 4b)
Zoning § 2(1)--Validity of Laws--Conditional Zoning Reclassification.
A zoning reclassification applied for by a landowner and granted to her by the county on conditions requiring her to dedicate and pave a portion of a street could not be successfully attacked as "contract zoning," where the procedure used entailed neither a formal nor a practical surrender of the county's future right to exercise its police power over zoning.

(5)
Zoning § 1--Extent of Authority.
The police power to zone and rezone may not be restricted by contract.

(6)
Zoning § 1--"Contract Zoning."
The phrase "contract zoning" has no legal significance and simply refers to a reclassification of land ***413** use in which the landowner agrees to perform conditions not imposed on other land in the same classification.

(7)
Contracts § 154--Effect--Law as Part of Contract.
All contracts are made with reference to possible exercise of the police power and with the possibility of its exercise as an implied term.

(8)
Zoning § 2(1)--Validity of Zoning Laws--Spot Zoning.
"Spot zoning" is valid when long-term changes in the neighborhood have created conditions compatible with the proposed new use.

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Spot Zoning, note, 51 **A.L.R.2d** 263. See also **Cal.Jur.2d,** Zoning, § 71; **Am.Jur.,** Zoning (1st ed § 39).

(9)
Zoning § 2(1)--Validity of Laws.
A proposed county rezoning ordinance was not a valid exercise of zoning power insofar as it involved a contract with the affected landowner providing that her failure to comply with all conditions imposed by the county would cause the property's return to its former zoning classification, where the proceedings on their face characterized the reversion as a forfeiture rather than a legislative decision on land use; such reversion would amount to a second rezoning, and automatic reversion would violate the procedural directions of state law; and, even if procedural directions were followed, the reversion would violate substantive limitations on the supervisors' legislative power with respect to zoning.

(10a, 10b, 10c)
Zoning § 2(1)--Validity of Laws--Conditions to Rezoning.
In a declaratory relief action brought by a landowner to test the validity of county supervisors' demands for dedicating street frontage and paving it at the landowner's own expense as a condition to rezoning the property from agricultural to multiple residence, the trial court erred in granting the county's motion for summary judgment, where the landowner's claim that the condition was arbitrarily imposed presented a factual inquiry for the trial court, and where the county's supporting affidavits, in essence, sought to demonstrate that the landowner's dedication of the strip and her expenditure for paving it would benefit her proposed apartment, but contained no showing that the apartment project would generate traffic or other conditions on the street which would reasonably necessitate widening and improving the street at her sole expense.

(11)
Zoning § 2(1)--Validity of Laws--Conditions to Rezoning.
The police power permits the imposition of reasonable conditions upon a landowner's proposal for rezoning, but not all conditions are valid; a grant of public privilege may not be conditioned upon the deprivation of constitutional protections.

(12)
Constitutional Law § 105--Police Power--Scope--Limitations.
The police power cannot extend beyond the necessities of a ***414** case and be made a cloak to destroy constitutional rights as to the inviolateness of private property.

(13)
Zoning § 2(1)--Validity of Laws--Conditions to Rezoning.
An arbitrarily conceived exaction of conditions upon a landowner's proposal for rezoning of his property will be nullified as a disguised attempt to take private property for public use without resort to eminent domain or as a mask for discriminatory taxation.

(14a, 14b)
Zoning § 2(1)--Validity of Laws--Conditions to Rezoning.
Conditions imposed on the grant of land use applications are valid if reasonably conceived to fulfill public needs emanating from the landowner's proposed use, but economic benefit to the landowner, standing alone, supplies inadequate underpinning for the exaction of such conditions.

(15)
Zoning § 2(1)--Validity of Laws--Conditions to Rezoning.
The relationship between a condition for rezoning exacted by a public authority and a use proposed by a landowner presents a factual inquiry for the trial court; in order to show a lack of relationship, the landowner must present evidence, and a court can seldom if ever resolve such an inquiry without taking evidence.

SUMMARY

APPEAL from a judgment of the Superior Court of Sacramento County. Mamoru Sakuma, Judge. Reversed with directions.

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Action for declaratory relief to test the validity of a board of supervisors' demands for dedicating a frontage road and paving it at plaintiff's expense in order to have property rezoned. Summary judgment for defendant reversed with directions.

COUNSEL

Bradford, Cross, Dahl & Hefner, Dahl, Hefner, Stark & Marois and John D. Bessey for Plaintiff and Appellant.

John B. Heinrich, County Counsel, and Thomas A. Darling, Deputy County Counsel, for Defendant and Respondent.

FRIEDMAN, Acting P. J.

Mrs. Bessie Scrutton, the plaintiff, brought a declaratory relief action against the County of Sacramento and appeals from a summary judgment favoring the county.

Mrs. Scrutton owns a parcel of land in suburban Sacramento County. Its 350-foot north boundary fronts on Whitney Avenue, an east-west arterial boulevard. Its 650-foot eastern ***415** edge borders a partially improved street called Foster Way. In May 1964 Mrs. Scrutton filed an application with the county planning commission seeking to have the property rezoned from agricultural to multiple family residential to permit its development for residential apartment units.

The planning commission recommended that the application be approved subject to conditions. Section 23(H) of the county's basic zoning ordinance provides: "The Board of Supervisors may impose conditions to the zoning reclassification of property where it finds that said conditions must be imposed so as not to create problems inimical to the public health, safety and general welfare of the County of Sacramento."

Among the requirements proposed by the planning commission were that Mrs. Scrutton dedicate a 10-foot right of way for widening Whitney Avenue and improve it with pavement, sidewalk, curbs and gutters; that on the east edge of her property she dedicate a 27-foot strip to form the west half of Foster Way; that she join an assessment district which would improve the west half of Foster Way with paving, sidewalk, curbs and gutters.

The board of supervisors then held a hearing to consider the application. The board expressed agreement with the conditions recommended by the planning commission, except that it imposed the additional requirement that Mrs. Scrutton pave Foster Way at her own expense instead of financing the work through a neighborhood assessment district. Before adopting the rezoning ordinance sought by Mrs. Scrutton, the board of supervisors tendered a deed and contract for her signature. According to the board's usual procedures, it would not formally adopt the rezoning ordinance until the applicant returned the executed deed and contract. Under the contract proferred Mrs. Scrutton, she would commit herself to comply with all the conditions imposed by the county, and any failure on her part would cause the property's reversion to agricultural zoning.

Mrs. Scrutton had no objection to the county's requirement for dedication and improvement of the Whitney Avenue frontage. Although she had originally been willing to go along with the demand for dedicating a 27-foot strip along Foster Way, she objected to the supervisors' demand that she pave the latter at her own expense (amounting to about $13,000). She refused to sign the proposed contract, then filed this delcaratory relief action to test the validity of the supervisors' ***416** demands for dedicating the Foster Way frontage and paving it at her own expense.

Mrs. Scrutton's complaint alleges that Whitney Avenue on the north will provide the sole vehicular access to her planned apartment development; that she does not plan on access to and from Foster Way; that the property across the street on Foster Way is owned by a school district which has dedicated and paved a 27-foot longitudinal strip forming the eastern half of Foster Way; that her action in dedicating and paving a 27-foot strip as the western half of Foster Way will not benefit her own property or her proposed apartment development. Her complaint also pointed to two development-ripe parcels owned by others to the south of her property, which were without northward access to Whitney Avenue but would, if the county's demands are met, be supplied with such access.

Although somewhat indirectly, Mrs. Scrutton's complaint charges that the Foster Way improvement

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project is unreasonably aimed at accommodating public needs unconnected with her own apartment development. The county filed an answer denying her claim of lack of benefit from the Foster Way widening project. The county's answer extolled the Foster Way project as a benefit to Mrs. Scrutton's property, but was silent as to the project's utility for public uses unrelated to her apartments. The county moved for a summary judgment, supporting its motion by affidavits averring that the Foster Way project would provide on-street parking for Mrs. Scrutton's tenants and assist in fire protection. Like the county's answer, its affidavits were reticent on the project's utility for unrelated public services, conceding that "this benefit inures to all property generally, including the Plaintiff's property." The trial court granted the summary judgment motion. Its judgment upholds the validity of section 23(H) of the county ordinance and declares its validity as applied to the facts. Mrs. Scrutton's appeal attacks both these conclusions.

Chapter 4 of title 7 of the Government Code (§§ 65800—65907) establishes standards for the adoption and administration of zoning regulations by counties and nonchartered cities. Among such standards is that of uniformity within land use zones. "All such regulations shall be uniform for each class or kind of building or use of land throughout each zone ...." (Gov. Code, § 65852.) Another provision of the state law recognizes that variances may be granted subject to individualized ***417** conditions. (Gov. Code, § 65906.) There is no statute specifically authorizing the imposition of conditions upon rezoning individual parcels.

(1) "Conditional zoning" is an appropriate phrase to describe a zoning change which permits use of a particular property subject to conditions not generally applicable to land similarly zoned. (1 Anderson, American Law of Zoning (1968) § 8.20, pp. 610-614.) (2a) Plaintiff contends that the conditional rezoning attempted here exceeds Sacramento County's authority under state law and violates that law's uniformity demand.

(3) County zoning regulations are a manifestation of the local police power conferred by article XI, section 11, of the state Constitution, not an exercise of authority delegated by statute. (*People v. Johnson,* 129 Cal.App.2d 1, 5-6 [277 P.2d 45]; see *Miller v. Board of Public Works,* 195 Cal. 477, 483 [234 P. 381, 38 A.L.R. 1479].)[1] In their intrinsic character and by express declaration the state laws on county and city zoning are designed as standardizing limitations over local zoning practices, not as specific grants of authority to legislate.[2] The state statutes' silence on conditional rezoning is not a denial of power to pursue that practice. The practice must find its own justification as an appropriate exercise of the local police power.[3]

(2b) So-called "Euclidean" zoning divides the community into homogeneous land use zones. Individual parcels ***418** may often be allowed a justified escape from this rigid grouping without detriment to zoning objectives. Rezoning an individual parcel is simply one of a variety of techniques for achieving flexibility in land use. (See 1 Anderson, *op. cit.,* § 8.17, pp. 604-608.) California elucidations of the local police power recognize that other kinds of application for change in regulated land use may be granted subject to the landowner's compliance with reasonable conditions. The power to impose such conditions has been upheld in connection with the approval of subdivisions (*Ayres v. City Council of Los Angeles,* 34 Cal.2d 31, 41-42 [207 P.2d 1, 11 A.L.R.2d 503]; *City of Buena Park v. Boyar,* 186 Cal.App.2d 61, 66-67 [8 Cal.Rptr. 674]); with the grant of building permits (*Southern Pac. Co. v. City of Los Angeles,* 242 Cal.App.2d 38, 45-48 [51 Cal.Rptr. 197]; *Sommers v. City of Los Angeles,* 254 Cal.App.2d 605, 610 [62 Cal.Rptr. 523]), and with the grant of zoning variances (*Bringle v. Board of Supervisors,* 54 Cal.2d 86, 88-89 [4 Cal.Rptr. 493, 351 P.2d 765]; see comment, 20 Hastings L.J. 735). The power to impose conditions on rezoning furthers the well-being of landowners generally, promotes community development and serves the general welfare.

Like other changes in land use, the rezoning of an individual parcel may benefit the landowner but generate augmented demands for public services or create deleterious effects in the neighborhood. Reasonably conceived conditions harmonize the landowner's need with the public's interest. In New York, the authority to reclassify subject to reasonable conditions has been upheld as a manifestation of the general authority to reclassify without conditions. (*Church v. Town of Islip* (1960) 8 N.Y.2d 254, 203

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N.Y.S.2d 866 [168 N.E.2d 680, 683].) The same police power which supports the imposition of reasonable conditions upon other kinds of change in land use sustains the power of California counties to engage in "conditional rezoning."

Government Code section 65852, *supra,* aims at the general objective of uniform land use within each land zone. Conceivably, a condition evolved under section 23(H) of the county ordinance might illegally broaden or narrow permissible land uses in violation of the state law's uniformity standard. (See 1 Anderson, *op. cit.,* § 5.17, pp. 287-291.) Alternatively, section 23(H) may be utilized to impose conditions in no way affecting the property's availability for uses identical with those of other property in the same zoning classification. Conditional zoning which does not affect the property's use does not violate the uniformity objective. The latter alternative ***419** characterizes the present case. The conditions imposed by the county would not prevent Mrs. Scrutton from using her property for all purposes within the multiple residential classification. We conclude that section 23(H) is a valid expression of Sacramento County's zoning power.

(4a) Quite aside from the validity of section 23(H), plaintiff attacks the county's action as "contract zoning" by which the county, in exchange for the landowner's covenants, would bargain away a portion of its future power over zoning. (5) The police power to zone and rezone may not be restricted by contract. (*Acker v. Baldwin,* 18 Cal.2d 341, 345 [115 P.2d 455]; *Griffin v. County of Marin,* 157 Cal.App.2d 507, 514-515 [321 P.2d 148].) (6) The phrase "contract zoning" has no legal significance and simply refers to a reclassification of land use in which the landowner agrees to perform conditions not imposed on other land in the same classification. No reported California decision deals with it. It has been criticized and defended, nullified in some states, sustained in others. (See, e.g., *Baylis v. City of Baltimore* (1959) 219 Md. 164 [148 A.2d 429]; *Sylvania Elec. Products, Inc. v. City of Newton* (1962) 344 Mass. 428 [183 N.E.2d 118]; *Bucholz v. City of Omaha* (1963) 174 Neb. 862 [120 N.W.2d 270]; *Church v. Town of Islip, supra*; see generally, 1 Anderson, *op.cit.,* § 8.21, pp. 616-620; 67 Dick.L.Rev. 109; 3 Gonzaga L.Rev. 197; 23 Md.L.Rev. 121; 12 Syracuse L.Rev. 230; 41 Temple L.Q. 267; 12 U.C.L.A. L.Rev. 897.)

(7) All contracts are made with reference to possible exercises of the police power and with the possibility of its exercise as an implied term. (*Mott v. Cline,* 200 Cal. 434, 446 [253 P. 718]; *Castleman v. Scudder,* 81 Cal.App.2d 737, 740 [185 P.2d 35].) Here the county itself does not become party to an express contract. Yet, when the zoning agency exacts a concomitant contract from the landowner, it holds out an implied or moral assurance that it will not quickly reverse or alter its decision. In a sense this assurance tends to freeze the property's status. The suspension of continuing police power is theoretical rather than real. "[W]e deal here with actualities, not phrases." (*Church v. Town of Islip, supra,* 168 N.E.2d at p. 683.) Approval of the landowner's application in the first instance represented "spot zoning" of an individual parcel. (8) That kind of zoning is valid when long-term changes in the neighborhood have created conditions compatible with the proposed new use. (*Wilkins v. City of San Bernardino,* 29 Cal.2d 332, 340 [175 P.2d 542]; *Skalko v. City* ***420** *of Sunnyvale,* 14 Cal.2d 213, 216 [93 P.2d 93]; 1 Anderson, *op. cit.,* § 5.06, pp. 248-252.) The very basis for the action—neighborhood change—provides the reclassification with a practical assurance of stability. The investment made on the strength of rezoning has precisely the same protection against later arbitrary action as any other property investment. A zoning ordinance may not immediately suppress or force removal of an otherwise lawful business or use. (*City of Los Angeles v. Gage,* 127 Cal.App.2d 442, 454 [274 P.2d 34].) All are shielded from arbitrariness and all are vulnerable to reasonable exercises of the police power. (*Hamer v. Town of Ross,* 59 Cal.2d 776, 781-783 [31 Cal.Rptr. 335, 382 P.2d 375]; *Lockard v. City of Los Angeles,* 33 Cal.2d 453, 461 [202 P.2d 38, 7 A.L.R.2d 990].) (4b) The contract zoning procedure pursued here entails neither a formal nor a practical surrender of the police power.

(9) Plaintiff has a valid objection to the reversion feature of the proposed rezoning. In effect, the proposed contract declares that the landowner's breach of covenant will be met by automatic reversion from the multiple residential to the original agricultural classification or by reversion through action of the board of supervisors. The reversion would amount to a second rezoning. Automatic reversion would violate the procedural directions of state law, which

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demand that rezoning be accomplished through notice, hearings and planning commission inquiry. (Gov. Code, §§ 65853—65857; *Richter v. Board of Supervisors, supra,* 259 Cal.App.2d at p. 105; *Hein v. City of Daly City,* 165 Cal.App.2d 401, 405-406 [332 P.2d 120].)

Even if procedural directions were followed, the reversion would violate substantive limitations upon the supervisors' legislative power. The board has power to rezone an individual parcel when changed community conditions have rendered the former classification unsuitable and the new one is consistent with the public interest. (*McCarthy v. City of Manhattan Beach,* 41 Cal.2d 879, 885, 892 [264 P.2d 932]; *Skalko v. City of Sunnyvale, supra,* 14 Cal.2d at p. 216; *Reynolds v. Barrett,* 12 Cal.2d 244, 251 [83 P.2d 29]; 13 Hastings L.J. 390-394.) Although the courts do not ordinarily inquire into legislative motivation, the proceedings on their face would characterize the reversion ordinance as a forfeiture rather than a legislative decision on land use. (Cf. *Kissinger v. City of Los Angeles,* 161 Cal.App.2d 454, 460-462 [327 P.2d 10].) An ordinance so conceived is not a valid exercise of zoning power.

The county, nevertheless, has alternative remedies. Other ***421** enforcement devices are possible and judicial remedies available, based upon such theories as breach of contract, breach of restrictive covenant and breach of equitable servitude. (See 12 U.C.L.A. L.Rev., *supra,* at pp. 907-912.) (10a) Lastly the inquiry focuses on validity of the specific demands attacked by Mrs. Scrutton's suit—that she dedicate a 27 by 650-foot strip as the western half of Foster Way and install pavement, gutter, curb and sidewalk at her own expense.

(11) As noted earlier, the police power permits the imposition of reasonable conditions upon the landowner's proposal. Not all conditions are valid. A grant of public privilege may not be conditioned upon the deprivation of constitutional protections. (*Bagley v. Washington Township Hospital Dist.,* 65 Cal.2d 499, 504-505 [55 Cal.Rptr. 401, 421 P.2d 409]; *Danskin v. San Diego Unified School Dist.,* 28 Cal.2d 536, 545-547 [171 P.2d 885].) (12) The police power "cannot extend beyond the necessities of the case and be made a cloak to destroy constitutional rights as to the inviolateness of private property." (*House v. Los Angeles County Flood Control Dist.,* 25 Cal.2d 384, 388-389 [153 P.2d 950].) (13) An arbitrarily conceived exaction will be nullified as a disguised attempt to take private property for public use without resort to eminent domain or as a mask for discriminatory taxation. (*Mid-Way Cabinet etc. Mfg. v. County of San Joaquin,* 257 Cal.App.2d 181, 192 [65 Cal.Rptr. 37]; *Kelber v. City of Upland,* 155 Cal.App.2d 631, 638 [318 P.2d 561]; see generally, 12 Syracuse L.Rev. at pp. 233-238.)

Although "reasonableness" has been postulated as the hallmark of validity, a more precise standard is available. An utterance in *Ayres v. City Council of Los Angeles, supra,* 34 Cal.2d at page 42 supplies it: "[W]here it is a condition reasonably related to increased traffic and other needs of the proposed [land use] it is voluntary in theory and not contrary to constitutional concepts." (14a) The *Ayres'* formulation may be generalized by the statement that conditions imposed on the grant of land use applications are valid if reasonably conceived to fulfill public needs emanating from the landowner's proposed use.

The California decisions illustrate two kinds of need: the community's protection against potentially deleterious effects of the landowner's proposal (e.g., *Ayres v. City Council of Los Angeles, supra,* 34 Cal.2d at pp. 38-39) and the community's need for facilities to meet public service demands created by the proposal (e.g., *Bringle v. Board of Supervisors,* ***422** *supra,* 54 Cal.2d at p. 89; *Sommers v. City of Los Angeles, supra,* 254 Cal.App.2d at p. 619; *Southern Pac. Co. v. City of Los Angeles, supra,* 242 Cal.App.2d at pp. 45-46; *City of Buena Park v. Boyar, supra,* 186 Cal.App. at p. 66.) While decisions invalidating the exaction rely upon theories of constitutional invasion, their springboard is the lack of relationship between the exaction and the proposed use (e.g., *Mid-Way Cabinet etc. Mfg. v. County of San Joaquin, supra,* 257 Cal.App.2d 181; *Kelber v. City of Upland, supra,* 155 Cal.App.2d 631.)

(15) The relationship between the condition exacted by the public authority and the use proposed by the landowner presents a factual inquiry for the trial court. In order to show a lack of relationship, the landowner must present evidence. (*Bringle v. Board of Supervisors, supra,* 54 Cal.2d at p. 89.) The court

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can seldom if ever resolve this inquiry without taking evidence. (10b) Mrs. Scrutton's claim of arbitrary imposition required that kind of inquiry by the trial court.

The county's supporting affidavits, on the other hand, fell short of the target. In essence they sought to demonstrate that the landowner's dedication of a 27 by 650-foot strip and her expenditure for paving it would benefit her proposed apartments. They contained no showing that Mrs. Scrutton's apartment project would generate traffic or other conditions on Foster Way which would reasonably necessitate widening and improving the street at her sole expense.

It is true that some of the courts have justified the exaction not only for its fulfillment of public needs caused by the proposed development, but also because it would benefit the landowner financially. (See discussion 52 Cornell L.Q. 871, 890-903; 20 Hastings L.J., *supra,* at pp. 740-743.) (14b) Standing alone, the landowner's economic benefit supplies inadequate underpinning for the exaction. The police power forms the exaction's constitutional foundation. That power is aimed at public need, not private profit. The landowner should be free to reject the paternalism which forces him into an exaction conceived for his personal benefit. The decisions seem to utilize the "private benefit" notion as judicial gloss after the prime essential, a public burden emanating from the development, has been discerned. (See, e.g., *Ayres v. City Council of Los Angeles, supra,* 34 Cal.2d at p. 41; *Southern Pac. Co. v. City of Los Angeles, supra,* 242 Cal.App.2d at p. 49.) The fulfillment of public needs emanating from the proposed land use is the *sina qua non* of the exaction's reasonableness. ***423**

(10c) The county's affidavits did not entitle it to judgment in the action and the trial court thus erred in granting the summary judgment motion. (Code Civ. Proc., § 437c.)

The judgment is reversed and the cause remanded to the trial court for proceedings compatible with the views expressed in this opinion.

Regan, J., and Janes, J., concurred.

Footnotes

1 Article XI, section 11, of the California Constitution: "Any county, city, town, or township may make and enforce within its limits all such local, police, sanitary, and other regulations as are not in conflict with general laws."

2 Government Code, section 65800, declares: "It is the purpose of this chapter to provide for the adoption and administration of zoning laws, ordinances, rules and regulations by counties and cities, as well as to implement such general plan as may be in effect in any such county or city. The Legislature declares that in enacting this chapter it is its intention to provide only a minimum of limitation in order that counties and cities may exercise the maximum degree of control over local zoning matters."

3 Plaintiff cites *Richter v. Board of Supervisors,* 259 Cal.App.2d 99 [66 Cal.Rptr. 52], as authority for the proposition that conditional zoning is impermissible in the absence of specific authorization in state law. *Richter* does not so hold. There the court dealt primarily with the procedural distinctions between rezoning and zoning variances. It decided, quite properly, that the state law requires rezoning of individual parcels to be accomplished by an ordinance, this state-prescribed mode of action being binding on the county. Notwithstanding a dictum speaking of "authority derived from a statute" (259 Cal.App.2d at p. 105), *Richter* does not hold that county zoning regulations are substantively limited to the specific delegations expressed by state law.

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Negative Treatment

Negative Citing References (3)

The KeyCited document has been negatively referenced by the following events or decisions in other litigation or proceedings:

Treatment	Title	Date	Type	Depth	Headnote(s)
Distinguished by	1. Colwell v. Howard County 354 A.2d 210 , Md.App. Landowner sought declaratory judgment that 'use it or lose it' provision of county zoning ordinance requiring that site development plan be submitted, building permits be applied...	Mar. 30, 1976	Case		1 Cal.Rptr.
Distinguished by	2. Grupe v. California Coastal Com. 212 Cal.Rptr. 578 , Cal.App. 1 Dist. Property owner brought action for administrative mandamus seeking invalidation of condition imposed in new development permit, which required property owner to offer to dedicate...	Mar. 27, 1985	Case		23 25 26 Cal.Rptr.
Distinguished by	3. Neighbors in Support of Appropriate Land Use v. County of Tuolumne MOST NEGATIVE 68 Cal.Rptr.3d 882 , Cal.App. 5 Dist. REAL PROPERTY - Zoning and Planning. Permission to allow use of property to host weddings violated the uniformity requirement and thus was invalid.	Dec. 07, 2007	Case		7 22 24 Cal.Rptr.

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Citing References (115)

Treatment	Title	Date	Type	Depth	Headnote(s)
Distinguished by NEGATIVE	**1.** Neighbors in Support of Appropriate Land Use v. County of Tuolumne 68 Cal.Rptr.3d 882, 888+ , Cal.App. 5 Dist. REAL PROPERTY - Zoning and Planning. Permission to allow use of property to host weddings violated the uniformity requirement and thus was invalid.	Dec. 07, 2007	Case		7 22 24 Cal.App.2d
Distinguished by NEGATIVE	**2.** Grupe v. California Coastal Com. 212 Cal.Rptr. 578, 589+ , Cal.App. 1 Dist. Property owner brought action for administrative mandamus seeking invalidation of condition imposed in new development permit, which required property owner to offer to dedicate...	Mar. 27, 1985	Case		23 25 26 Cal.App.2d
Discussed by	**3.** Rohn v. City of Visalia 263 Cal.Rptr. 319, 323+ , Cal.App. 5 Dist. Property owners petitioned for writ of mandamus to delete dedication condition imposed by city on issuance of building permit. The Superior Court, Tulare County, Edward Kim, J.,...	Oct. 26, 1989	Case		20 22 24 Cal.App.2d
Discussed by	**4.** Taschner v. City Council 107 Cal.Rptr. 214, 226+ , Cal.App. 4 Dist. Taxpayer and owner of real property in general law city brought petition for writ of mandate seeking to challenge validity of initiative building height limit ordinance. The...	Mar. 08, 1973	Case		2 3 Cal.App.2d
Discussed by	**5.** Associated Home Builders of Greater East Bay, Inc. v. City of Walnut Creek 90 Cal.Rptr. 663, 670+ , Cal.App. 1 Dist. Action for declaratory relief. A judgment in the Superior Court, County of Contra Costa, Richard E. Arnason, J., sustained the constitutionality and validity of a statute enabling...	Oct. 13, 1970	Case		24 26 Cal.App.2d
Discussed by	**6.** Sierra Nevada SW Enterprises, Ltd. v. Douglas County 2011 WL 1304472, *9+ , D.Nev. This case arises out of the Douglas County Board's (the “Board”) approval of an amendment to the 1996 Douglas County Master Plan (the “Master Plan”) and attendant zoning changes in...	Mar. 30, 2011	Case		2 Cal.App.2d
Discussed by	**7.** Transamerica Title Ins. Co. v. City of Tucson 533 P.2d 693, 696+ , Ariz.App. Div. 2 Action for declaratory judgment to determine validity of city's requiring dedication of right-of-way along streets in order to grant rezoning. The Superior Court, Pima County,...	Apr. 09, 1975	Case		20 22 23 Cal.App.2d

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Treatment	Title	Date	Type	Depth	Headnote(s)
Discussed by	**8.** Perry v. Planning Commission of Hawaii County 619 P.2d 95, 106+ , Hawai'i Owners of property adjoining proposed quarry site within agricultural district appealed from Land Use Commission's order approving the grant of special land use permit authorizing...	Nov. 07, 1980	Case		—
Discussed by	**9.** Honorable George R. Ariyoshi 1972 WL 313226 (Hawaii A.G.), *2+ This is in response to your letter of December 1, 1971, requesting an opinion as to the legality of authorizing the Land Use Commission to (1) set conditions for zoning changes,...	Mar. 21, 1972	Administrative Decision		15 18 Cal.App.2d
Distinguished by NEGATIVE	**10.** Colwell v. Howard County 354 A.2d 210, 213+ , Md.App. Landowner sought declaratory judgment that 'use it or lose it' provision of county zoning ordinance requiring that site development plan be submitted, building permits be applied...	Mar. 30, 1976	Case		1 Cal.App.2d
Cited by	**11.** Griffin Development Co. v. City of Oxnard 217 Cal.Rptr. 1, 12 , Cal. Apartment owners petitioned for writ of mandate to compel city to issue special permit to allow condominium conversion. The Superior Court, Ventura County, William L. Peck, J.,...	Aug. 01, 1985	Case		13 Cal.App.2d
Cited by	**12.** Citizens Opposing a Dangerous Environment v. County of Kern 174 Cal.Rptr.3d 683, 702 , Cal.App. 5 Dist. ENVIRONMENTAL LAW — Impact Statements. EIR mitigation measure which required "hazard/no-hazard" determination from Federal Aviation Administration (FAA) was not legally infeasible.	June 30, 2014	Case		—
Cited by	**13.** People v. Cortes 2002 WL 220339, *7 , Cal.App. 4 Dist. CRIMINAL JUSTICE - Fines. County ordinance allowing recovery of costs of enforcement from defendant was preempted by state law.	Feb. 11, 2002	Case		3 Cal.App.2d
Cited by	**14.** People v. Minor 116 Cal.Rptr.2d 591, 598 , Cal.App. 4 Dist. GOVERNMENT - Counties. County could not recover enforcement costs from defendant in prosecution for violations of county code.	Feb. 08, 2002	Case		3 Cal.App.2d
Cited by	**15.** DeVita v. County of Napa 26 Cal.Rptr.2d 274, 285 , Cal.App. 1 Dist. Planning. Portions of county's general plan pertaining to agricultural land use could be readopted by initiative.	Dec. 16, 1993	Case		2 Cal.App.2d

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Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**16.** Waste Management of the Desert, Inc. v. Palm Springs Recycling Center, Inc. 11 Cal.Rptr.2d 676, 686 , Cal.App. 4 Dist. City and private refuse hauler which was its exclusive franchisee brought action against private recycling business seeking injunction prohibiting business from collecting...	Sep. 01, 1992	Case		21 Cal.App.2d
Cited by	**17.** Bank of the Orient v. Town of Tiburon 269 Cal.Rptr. 690, 697 , Cal.App. 1 Dist. Developers challenged validity of temporary development moratorium approved by initiative. The Superior Court, Marin County, No. 129670, Joseph G. Wilson, J., retired, assigned,...	May 24, 1990	Case		2 Cal.App.2d
Cited by	**18.** City of Porterville v. Young 241 Cal.Rptr. 349, 355 , Cal.App. 5 Dist. In eminent domain action, the Superior Court, Tulare County, N.O. Bradley and Kenneth E. Conn, JJ., determined value of owner's property taken to be $18,336 and additionally...	Nov. 02, 1987	Case		—
Cited by	**19.** Whaler's Village Club v. California Coastal Com. 220 Cal.Rptr. 2, 13 , Cal.App. 2 Dist. Coastal homeowners sought writ of mandamus to compel the Coastal Commission to remove conditions from permit for construction of revetment, and Commission sought injunctive relief...	Oct. 11, 1985	Case		20 Cal.App.2d
Cited by	**20.** Whalers' Village Club v. California Coastal Com'n 218 Cal.Rptr. 122, 132 , Cal.App. 2 Dist. Coastal homeowners sought writ of mandamus to compel Coastal Commission to remove conditions from permit for construction of revetment, and Commission sought injunctive relief and...	Sep. 11, 1985	Case		20 Cal.App.2d
Cited by	**21.** Remmenga v. California Coastal Com. 209 Cal.Rptr. 628, 630+ , Cal.App. 2 Dist. Owners of lot in Hollister Ranch subdivision sought writ of mandate to compel Coastal Commission to issue a development permit without payment of statutorily required $5,000 fee in...	Jan. 14, 1985	Case		22 Cal.App.2d
Cited by	**22.** Griffin Development Co. v. City of Oxnard 199 Cal.Rptr. 739, 745 , Cal.App. 2 Dist. Apartment owners petitioned for writ of mandate to compel city to issue special permit to allow condominium conversion. The Superior Court, Ventura County, William L. Peck, J.,...	Mar. 07, 1984	Case		13 Cal.App.2d

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Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**23. Building Industry Ass'n of Southern California v. City of Oxnard** 198 Cal.Rptr. 63, 65+ , Cal.App. 2 Dist. The Superior Court, Ventura County, William L. Peck, J., granted summary judgment upholding validity of challenged ordinance, and appeal was taken. The Court of Appeal, Abbe, J.,...	Jan. 06, 1984	Case		22 23 Cal.App.2d
Cited by	**24. Pacific Legal Foundation v. California Coastal Commission** 180 Cal.Rptr. 858, 865 , Cal.App. 2 Dist. Appeals were taken from orders of the Superior Court of Los Angeles County, Vernon G. Foster, and James E. Cunningham, JJ., in actions challenging regulations of the California...	Feb. 24, 1982	Case		23 Cal.App.2d
Cited by	**25. Liberty v. California Coastal Com.** 170 Cal.Rptr. 247, 254+ , Cal.App. 4 Dist. Proceeding was instituted on petition for a writ of mandate against the Coastal Commission with respect to conditions imposed on granting of a construction permit in a recreational...	Dec. 17, 1980	Case		22 Cal.App.2d
Cited by	**26. People ex rel. Younger v. County of El Dorado** 157 Cal.Rptr. 815, 817+ , Cal.App. 3 Dist. The Superior Court, El Dorado County, Joseph S. Huberty, J., upheld county ordinance banning all rafting and boating on section of navigable river, and appeal was taken. The Court...	Aug. 27, 1979	Case		21 Cal.App.2d
Cited by	**27. J-Marion Co. v. County of Sacramento** 142 Cal.Rptr. 723, 725+ , Cal.App. 3 Dist. Property owners sought alteration of zoning contract and board of supervisors refused to permit alteration. The Court of Appeal, Evans, J., held that where landowner requested...	Dec. 16, 1977	Case		—
Cited by	**28. Pfeiffer v. City of La Mesa** 137 Cal.Rptr. 804, 806 , Cal.App. 4 Dist. Action in inverse condemnation was instituted against city by owners of improved real property. The Superior Court, San Diego County, William A. Yale, J., granted city a judgment...	Apr. 15, 1977	Case		23 Cal.App.2d
Cited by	**29. G & D Holland Construction Co. v. City of Marysville** 91 Cal.Rptr. 227, 231 , Cal.App. 3 Dist. Petitioners sought writ of mandate against city to compel issuance of building permit for apartment house development on square block of real estate which had been rezoned by city,...	Nov. 17, 1970	Case		—

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Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**30.** **Orinda Homeowners Committee v. Board of Supervisors** 90 Cal.Rptr. 88, 91 , Cal.App. 1 Dist. Action by adjacent property owners for injunction and writ of mandate to invalidate rezoning ordinance. The Superior Court, Contra Costa County, Norman A. Gregg, J., denied...	Sep. 30, 1970	Case		—
Cited by	**31.** **Geophysical Corp. of Alaska v. Andrus** 453 F.Supp. 361, 371+ , D.Alaska A corporation engaged in geophysical exploration of the Outer Continental Shelf brought an action against the Secretary of the Interior and another official of the Interior...	May 25, 1978	Case		—
Cited by	**32.** **HMK Corp. v. Chesterfield County** 1984 WL 2859, *14+ , E.D.Va. On 5 April 1984, defendants filed their motion to dismiss and motion for summary judgment. On 10 April 1984, the plaintiff responded. On 12 April 1984 defendants rebutted. On...	Aug. 09, 1984	Case		22 Cal.App.2d
Cited by	**33.** **Haas v. City of Mobile** 265 So.2d 564, 566+ , Ala. Declaratory judgment proceeding seeking to have declared void and unconstitutional a certain zoning ordinance. The Circuit Court, in Equity, Mobile County, William D. Bolling, J.,...	Aug. 10, 1972	Case		23 Cal.App.2d
Cited by	**34.** **Spiker v. City of Lakewood** 603 P.2d 130, 132 , Colo. Homeowners association brought declaratory judgment action challenging city council's approval of plat of rezoned property. The District Court, Jefferson County, Michael C....	Nov. 19, 1979	Case		15 16 Cal.App.2d
Cited by	**35.** **Collard v. Incorporated Village of Flower Hill** 439 N.Y.S.2d 326, 328 , N.Y. Property owners appealed from order of the Supreme Court, Appellate Division, 75 A.D.2d 631, 427 N.Y.S.2d 301, which reversed, on the law, an order of the Supreme Court, Special...	May 07, 1981	Case		—
Cited by	**36.** **Greenwich Bay Yacht Basin Associates ex rel. DeFelice v. Washburn** 1987 WL 882288, *2 , R.I.Super. This is an appeal from a decision of the Zoning Board of Review of the City of Warwick (City) which affirmed a decision and order by the City Building Inspector which had denied...	Dec. 14, 1987	Case		15 16 Cal.App.2d
Cited by	**37.** **In the Matter of: Application for Certification of Northern California Power Agency's GEOTHERMAL PROJECT NO. 3 (110 MW)** 1982 WL 25998 (Cal.Energy.Res.Cons.Dev.Com.), *38 The Commission Decision in the above-captioned matter is based upon the evidentiary record of these proceedings (Docket No. 81-AFC-3). The following text contains a summary of the...	Dec. 29, 1982	Administrative Decision		23 Cal.App.2d

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Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**38. THE HONORABLE WILLIAM H. IVERS** 72 Ops. Cal. Atty. Gen. 149, 149 THE HONORABLE WILLIAM H. IVERS, DIRECTOR, DEPARTMENT OF BOATING AND WATERWAYS, has requested an opinion on the following question: Where a city operates a boating program on an...	Aug. 29, 1989	Administrative Decision		2 Cal.App.2d
Cited by	**39. THE HONORABLE BYRON D. SHER** 68 Ops. Cal. Atty. Gen. 268, 268 THE HONORABLE BYRON D. SHER, Member, California Assembly, has requested an opinion on the following question: Is the "overflow waters" provision of Fish and Game Code section...	Oct. 10, 1985	Administrative Decision		2 Cal.App.2d
Cited by	**40. THE HONORABLE JAMES E. DREMANN** 64 Ops. Cal. Atty. Gen. 795, 795 THE HONORABLE JAMES E. DREMANN, DISTRICT ATTORNEY, SIERRA COUNTY, has requested an opinion on the following question: Is it a conflict of interest for a county supervisor, who is...	Oct. 29, 1981	Administrative Decision		—
Cited by	**41. Honorable Glenn Otto** 39 Or. Op. Atty. Gen. 467, 467+ May the grant of a zone change by a city be based on conditions such as the dedication of property, an agreement to limit the uses to which the property will be put, or an...	Jan. 10, 1979	Administrative Decision		—
Mentioned by	**42. Ad Hoc Committee for Clean Water v. Sonoma County Bd. of Sup'rs** 2002 WL 1454105, *17 , Cal.App. 1 Dist. ENVIRONMENTAL LAW - Impact Statements. County's amended right to farm ordinance was exempt from review under Environmental Quality Act.	July 08, 2002	Case		—
Mentioned by	**43. Delucchi v. County of Santa Cruz** 225 Cal.Rptr. 43, 49 , Cal.App. 6 Dist. Coastal landowner who had contracted with county to subject his land to requirements of agricultural preserve zone ordinance in exchange for tax advantages brought action against...	Apr. 03, 1986	Case		—
Mentioned by	**44. King's Mill Homeowners Ass'n, Inc. v. City of Westminster** 557 P.2d 1186, 1191 , Colo. Homeowners and others brought action challenging validity of city ordinance rezoning 119 acres of land. The District Court, Jefferson County, Daniel L. Shannon, J., dismissed the...	Dec. 27, 1976	Case		1 5 10 Cal.App.2d
—	**45. Determination whether zoning or rezoning of particular parcel constitutes illegal spot zoning** 73 A.L.R.5th 223 The zoning or rezoning of a single tract of land, usually small in size, such that it is zoned differently from surrounding property may be invalidated as illegal spot zoning. The...	1999	ALR	—	—

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Treatment	Title	Date	Type	Depth	Headnote(s)
—	**46. Validity, construction, and effect of agreement to rezone, or amendment to zoning ordinance, creating special restrictions or conditions not applicable to other property similarly zoned** 70 A.L.R.3d 125 This annotation collects and analyzes the cases dealing with the validity, construction, and effects of agreements to rezone, or amendments to zoning ordinances, creating special...	1976	ALR	—	20 22 23 24 26 Cal.App.2d
—	**47. Constitutionality of city or town planning statutes or ordinances** 12 A.L.R. 679 The reported case for this annotation is Town of Windsor v. Whitney, 95 Conn. 357, 111 A. 354, 12 A.L.R. 669 (1920). This annotation is supplemented by 28 ALR 314, 44 ALR 1377 and...	1921	ALR	—	23 Cal.App.2d
—	**48. Validity of zoning law as affected by limitation of area zoned partial or "piecemeal" zoning** 165 A.L.R. 823 The reported case for this annotation is Anne Arundel County Com'rs v. Ward, 186 Md. 330, 46 A.2d 684, 165 A.L.R. 816 (1946).	1946	ALR	—	12 Cal.App.2d
—	**49. Exception of existing buildings or businesses from statute or ordinance enacted in exercise of police or license taxing power, as unconstitutional discrimination** 136 A.L.R. 207 The reported case for this annotation is State ex rel. F.W. Woolworth Co. v. State Board of Health, 237 Wis. 638, 298 N.W. 183, 136 A.L.R. 205 (1941).	1942	ALR	—	21 Cal.App.2d
—	**50. Anderson's American Law of Zoning s 9:17, § 9:17. Devices employed to make zoning more flexible, generally** Euclidian zoning, whether cumulative or exclusive in character, effects a relatively crude separation of land uses. It imposes a simple pattern which is incapable of accommodating...	2024	Other Secondary Source	—	5 Cal.App.2d
—	**51. Anderson's American Law of Zoning s 9:20, § 9:20. Conditional zoning** A zoning amendment which permits a use of particular property in a zoning district subject to restrictions other than those applicable to all land similarly classified is sometimes...	2024	Other Secondary Source	—	1 Cal.App.2d
—	**52. Anderson's American Law of Zoning s 9:21, § 9:21. Contract zoning** Where a zoning amendment authorizes a particular use only if the landowner enters into a covenant to restrict the use in certain ways, or where a zoning amendment is adopted only...	2024	Other Secondary Source	—	10 Cal.App.2d
—	**53. § 6:4. Specter of Contract Zoning** The inherent give and take of the PUD process raises the specter of contract zoning, which is discussed in detail in Chapter 7. Most courts, however, have upheld the PUD process in...	2024	Other Secondary Source	—	10 Cal.App.2d

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Treatment	Title	Date	Type	Depth	Headnote(s)
—	**54. § 7:1. Difference Between Contract Zoning and Conditional Zoning** As some courts have concluded, a meaningful distinction can be made between contract zoning and conditional zoning. The extent of judicial grasp of this distinction usually...	2024	Other Secondary Source	—	—
—	**55. § 7:12. Noncompliance—Developer** If conditional zoning is valid in the particular jurisdiction and the rezoning is tied to an express agreement, then, in the event of developer noncompliance, the government will...	2024	Other Secondary Source	—	—
—	**56. Introduction** The increasing judicial acceptance of unilateral contract zoning, or conditional zoning, reflects the reality recognized by practitioners and seasoned commentators: The majority of...	2024	Other Secondary Source	—	9 Cal.App.2d
—	**57. § 4:17. Conditional zoning** Conditional zoning provides flexibility to the basic use zoning system. While conditional zoning takes a variety of forms and lacks a precise definition, its use stems from the...	2023	Other Secondary Source	—	1 Cal.App.2d
—	**58. § 5:13. Uniformity and classification** The Standard State Zoning Enabling Act provides that "regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations in one...	2023	Other Secondary Source	—	8 Cal.App.2d
—	**59. Local Government Law s 16:13, § 16:13. Devices to achieve zoning flexibility—Conditional zoning** Conditional zoning is the granting of a zoning change which is subject to specific conditions either bilaterally or unilaterally agreed upon which limit otherwise permitted uses in...	2024	Other Secondary Source	—	—
—	**60. Miller and Starr California Real Estate s 20:28, § 20:28. Dedications and creation of easements, generally** Dedication to public use can be required. A dedication involves the uncompensated transfer of an interest in private property to a public entity for public use. A dedication can...	2024	Other Secondary Source	—	20 Cal.App.2d
—	**61. Miller and Starr California Real Estate s 21:18, § 21:18. Development fees and exactions—In-lieu fees and other development fees** Payment of fees rather than dedication. A local agency can require a developer or project sponsor to pay fees in lieu of dedicating land or constructing facilities, including...	2024	Other Secondary Source	—	20 Cal.App.2d
—	**62. Miller and Starr California Real Estate s 21:30, § 21:30. Statutory vested rights—Development agreements** Statutory basis. The Development Agreement law is a statutory response to the harsh effect on developers of the common law doctrine of vested rights as enunciated in the leading...	2024	Other Secondary Source	—	—

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Treatment	Title	Date	Type	Depth	Headnote(s)
—	**63. Ordinance Law Annotations Zoning s 39, § 39. Power to rezone** Ordinance Law Annotations Zoning Commercial real estate was rezoned, for purposes of purchase agreement requiring property be rezoned by a specific date, when the zoning authority approved the rezoning at its...	2024	Other Secondary Source	—	26 Cal.App.2d
—	**64. Pindar's Ga. Real Estate Law & Proc. with Forms s 3:23, § 3:23. Conditional zoning** In granting a zoning exception or variance, authorities will often impose conditions upon the applicant, and the legality of such impositions may be subject to question. Where a...	2024	Other Secondary Source	—	1 10 Cal.App.2d
—	**65. Rathkopf's The Law of Zoning and Planning s 44:4, § 44:4. Authority upheld as flexible zoning device** Rezoning with site-specific conditions is authorized by statute in some states. Moreover, even in the absence of express statutory authority, an increasing number of state court...	2024	Other Secondary Source	—	—
—	**66. Rathkopf's The Law of Zoning and Planning s 44:6, § 44:6. Reverter provisions** Conditional rezoning ordinances may contain a reversion clause which provides that rezoned property will revert back to its prior zoning classification if the developer fails to...	2024	Other Secondary Source	—	15 18 Cal.App.2d
—	**67. Rathkopf's The Law of Zoning and Planning s 44:8, § 44:8. Judicial review—Validity of conditions imposed** Courts approving of rezoning with site-specific conditions require that the conditions imposed be reasonably conceived and promote the general welfare. Illegal or unreasonable...	2024	Other Secondary Source	—	—
—	**68. Rathkopf's The Law of Zoning and Planning s 41:11, § 41:11. Contract zoning and site-specific conditions** The acceptance of contract zoning by an increasing number of jurisdictions has made the issue of private gain more problematic. Contract, or conditional, rezonings generally allow...	2024	Other Secondary Source	—	—
—	**69. Rathkopf's The Law of Zoning and Planning s 44:10, § 44:10. Developer-locality agreements—Generally** Two primary objectives of zoning officials in a developing community are to achieve flexibility in the zoning process and to maintain as much control as possible over the...	2024	Other Secondary Source	—	—
—	**70. Rathkopf's The Law of Zoning and Planning s 44:12, § 44:12. Developer-locality agreements—Valid conditional zoning** Many courts have expressly upheld or strongly indicated support for conditional rezoning, regardless of whether the conditions are directly imposed by the amending ordinance or are...	2024	Other Secondary Source	—	20 Cal.App.2d

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Treatment	Title	Date	Type	Depth	Headnote(s)
—	**71. Rathkopf's The Law of Zoning and Planning s 44:15, § 44:15. Developer-locality agreements—Protection from subsequent rezoning** The legislative discretion which permits a local government to grant a rezoning request will also usually allow the local government to rezone the same land again. Since a local...	2024	Other Secondary Source	—	—
—	**72. State and Local Government Land Use Liability s 11:3, § 11:3. Authority to negotiate and settle—Police power and use of settlement agreements** It is well-settled law that a municipality cannot contract away its legislative and governmental functions. This rule generally precludes the municipality from agreeing to bind its...	2023	Other Secondary Source	—	—
—	**73. Witkin, California Summary 10th Constitutional Law s 1135, Local Power and State Law.** Witkin, California Summary 10th Constitutional Law (1) In General. Zoning is within the constitutional police power of a municipality and is normally accomplished by local ordinances. (See Cal. Const., Art. XI, § 7, supra, § 1106;...	2024	Other Secondary Source	—	2 Cal.App.2d
—	**74. Witkin, California Summary 10th Constitutional Law s 1174, Illustrations.** Witkin, California Summary 10th Constitutional Law In Hoshour v. Contra Costa (1962) 203 C.A.2d 602, 21 C.R. 714, plaintiffs owned a triangular corner lot zoned residential and subject to setback ordinances. If strictly enforced,...	2024	Other Secondary Source	—	—
—	**75. Zoning and Planning Deskbook, Second Edition s 6:14, § 6:14. Legislative zone amendments** Legislative zone amendments represent another method of introducing a degree of flexibility into the zoning process. The purpose of zone amendments, or rezoning, is to allow owners...	2023	Other Secondary Source	—	—
—	**76. Am. Jur. 2d Constitutional Law s 357, § 357. Regulation of lawful pursuits pursuant to police power** Am. Jur. 2d Constitutional Law A calling is not exempt from police power regulation merely because it is lawful as the power to regulate occupations and businesses is not confined to the regulation of business...	2024	Other Secondary Source	—	21 Cal.App.2d
—	**77. Am. Jur. 2d Zoning and Planning s 134, § 134. Devices employed to make zoning more flexible, generally** Am. Jur. 2d Zoning and Planning Some flexibility as to the use to which property can be put is built into every zoning scheme through the power to amend the zoning ordinance. While the use of an amendment to...	2024	Other Secondary Source	—	1 Cal.App.2d

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Treatment	Title	Date	Type	Depth	Headnote(s)
—	**78. Am. Jur. 2d Zoning and Planning s 135, § 135. Devices employed to make zoning more flexible, generally—Conditional zoning** Am. Jur. 2d Zoning and Planning Conditional zoning is a device employed to bring some flexibility of use to an otherwise rigid system of control. It is generally used to describe a zoning change granted to an...	2024	Other Secondary Source	—	1 Cal.App.2d
—	**79. Cal. Jur. 3d Zoning and Other Land Controls s 123, § 123. Enabling legislation as source of zoning authority** Cal. Jur. 3d Zoning and Other Land Controls The state has adopted legislation, principally in the Planning and Zoning Law, granting zoning powers to counties and cities and regulating the exercise of these powers. The...	2024	Other Secondary Source	—	3 4 Cal.App.2d
—	**80. Cal. Jur. 3d Zoning and Other Land Controls s 136, § 136. Impairment of vested property right as factor in determining validity of zoning ordinance or regulation** Cal. Jur. 3d Zoning and Other Land Controls Public entities may impair vested rights where necessary to protect the health and safety of the public; the vesting of property rights does not render them immutable. Every zoning...	2024	Other Secondary Source	—	15 16 18 Cal.App.2d
—	**81. Cal. Jur. 3d Zoning and Other Land Controls s 170, § 170. Spot zoning as part of comprehensive plan** Cal. Jur. 3d Zoning and Other Land Controls Where a community adopts a general zoning ordinance, the fact that the ordinance permits additional uses in small areas scattered throughout restricted districts does not...	2024	Other Secondary Source	—	12 Cal.App.2d
—	**82. Cal. Jur. 3d Zoning and Other Land Controls s 171, § 171. Surrounding uses effect on spot zoning** Cal. Jur. 3d Zoning and Other Land Controls Spot zoning of an individual parcel is valid when long-term changes in the neighborhood have created conditions compatible with the proposed new use. However, a landowner seeking...	2024	Other Secondary Source	—	12 Cal.App.2d
—	**83. Cal. Jur. 3d Zoning and Other Land Controls s 256, § 256. Conditional or contract zoning** Cal. Jur. 3d Zoning and Other Land Controls "Conditional or contract zoning" is an appropriate phrase to describe a zoning change that permits use of a particular property subject to conditions not generally applicable to...	2024	Other Secondary Source	—	10 20 23 Cal.App.2d
—	**84. Cal. Jur. 3d Zoning and Other Land Controls s 371, § 371. Constitutional police or zoning power to exact dedications and fees** Cal. Jur. 3d Zoning and Other Land Controls The legal authority of a city or county to impose exactions in the form of dedications or fees is set forth in the California Constitution, which states that a county or city may...	2024	Other Secondary Source	—	20 22 Cal.App.2d

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Treatment	Title	Date	Type	Depth	Headnote(s)
—	**85. Cal. Jur. 3d Zoning and Other Land Controls s 489, § 489. Declaratory relief with regard to zoning ordinances and regulations** Cal. Jur. 3d Zoning and Other Land Controls The validity of a zoning ordinance or regulation may be tested, in appropriate circumstances, by a declaratory relief action; a plaintiff may test the validity of a zoning...	2024	Other Secondary Source	—	—
—	**86. CJS Zoning and Land Planning s 6, § 6. Statutory and constitutional sources of zoning power** CJS Zoning and Land Planning The original zoning power of the state resides in the state legislature, and the legislature is authorized to delegate to municipalities the power to adopt zoning ordinances. The...	2024	Other Secondary Source	—	2 Cal.App.2d
—	**87. CJS Zoning and Land Planning s 67, § 67. Nonconforming uses** CJS Zoning and Land Planning As a general rule, zoning laws and regulations may not operate to restrict or remove existing buildings and uses that are not in conformity with the restrictions applicable to the...	2024	Other Secondary Source	—	—
—	**88. CJS Zoning and Land Planning s 72, § 72. Spot zoning** CJS Zoning and Land Planning As a general rule, a municipality is without authority to single out one or a few lots in an amendatory regulation and arbitrarily remove therefrom restrictions imposed on the...	2024	Other Secondary Source	—	1 Cal.App.2d
—	**89. CJS Zoning and Land Planning s 73, § 73. Contracts for amendments; conditional rezoning** CJS Zoning and Land Planning A municipality generally does not have authority to enter into a contract with a property owner for the reclassification or rezoning of property or the enactment of amendments to...	2024	Other Secondary Source	—	20 22 Cal.App.2d
—	**90. CJS Zoning and Land Planning s 76, § 76. Limitations on exercise of power, generally** CJS Zoning and Land Planning The authority to modify or amend zoning ordinances or regulations exists only by virtue of constitutional or statutory provisions. Accordingly, the action taken must be within the...	2024	Other Secondary Source	—	22 Cal.App.2d
—	**91. CJS Zoning and Land Planning s 77, § 77. Reasonableness, uniformity, and discrimination** CJS Zoning and Land Planning A zoning regulation or classification may be changed or amended when, and only when, such action is reasonable. A zoning change must comply with constitutional provisions...	2024	Other Secondary Source	—	1 Cal.App.2d

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Treatment	Title	Date	Type	Depth	Headnote(s)
—	**92. CJS Zoning and Land Planning s 88, § 88. Report or approval of board or commission** CJS Zoning and Land Planning It may be required by statute that a governing body intending to change, modify, or amend zoning regulations obtain the advice, or the recommendation or concurrence, of a zoning or...	2024	Other Secondary Source	—	—
—	**93. DEVELOPMENT AGREEMENTS: BARGAINED-FOR ZONING THAT IS NEITHER ILLEGAL CONTRACT NOR CONDITIONAL ZONING** 33 Cap. U. L. Rev. 383 , 497+ Historically, land development in North America meant the subdividing of vast tracts of land into individual building lots that formed cities and towns. The two principal...	2004	Law Review	—	22 23 24 Cal.App.2d
—	**94. "FAIR" COMPENSATION AND THE ACCOMMODATION POWER: ANTIDOTES FOR THE TAKING IMPASSE IN LAND USE CONTROVERSIES** 75 Colum. L. Rev. 1021 , 1082+ "Dinah'll miss me very much tonight, I should think." (Dinah was the cat.) .. "Dinah, my dear! I wish you were down here with me! There are no mice in the air, I'm afraid, but...	1975	Law Review	—	22 23 Cal.App.2d
—	**95. THE CHICAGO PLAN: INCENTIVE ZONING AND THE PRESERVATION OF URBAN LANDMARKS** 85 Harv. L. Rev. 574 , 634 Present legal methods for preserving America's architectural landmarks are being shown to be only minimally effective in preserving landmarks located in high development sections...	1972	Law Review	—	8 Cal.App.2d
—	**96. CALIFORNIA COUNTIES: SECOND-RATE LOCALITIES OR READY-MADE REGIONAL GOVERNMENTS?** 26 Hastings Const. L.Q. 621 , 709 I. Introduction. 623 II. A Brief History of California County Government. 627 A. Typology of California Local Government. 627 i. Counties. 627 ii. Cities. 629 iii....	1999	Law Review	—	—
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